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MONTANA LEGISLATIVE HISTORY

Chapter 56 19 99

Bill H 82 S _____ Original bill & history ✓ C

H. Committee on TAXATION			S. Committee on TAXATION		
Hearing Date(s)	1/11	X C	Hearing Date(s) & EXEC. ACTION	2/9	X C
EXEC. ACTION	1/14	Y C			C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____ Report _____

LEGISLATIVE HISTORIES SINCE 1997

The scope and depth of legislative committee minutes varies by year and by committee. If you would like additional information about a hearing, you may want to determine whether the hearing was recorded. In addition, some recent floor debates were also recorded. For information on accessing or purchasing these recordings, contact the Historical Society Archives at 406-444-4774.

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Montana Legislative Branch

Montana Legislature

Detailed Bill Information

1999 Session

Bill Draft Number: LC0114 Current Bill Text
Bill Type - Number: HB 82
Short Title: Revise county tax appeal procedure
Primary Sponsor: Hal Harper

Bill Actions - Current Bill Progress: Became Law

Bill Action Count: 52

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	03/16/1999			
(H) Signed by Governor	03/15/1999			
(H) Transmitted to Governor	03/10/1999			
(S) Signed by President	03/10/1999			
(H) Signed by Speaker	03/09/1999			
(C) Sent to Printing	03/08/1999			
(H) Returned from Enrolling	03/08/1999			
(H) Sent to Enrolling	03/05/1999			
(H) 3rd Reading Passed	03/05/1999	96	3	
(H) Scheduled for 3rd Reading	03/05/1999			
(H) 2nd Reading Senate Amendments Concurred	03/04/1999	98	2	
(H) Scheduled for 2nd Reading	03/04/1999			
(H) Scheduled for 2nd Reading	03/03/1999			
(S) Returned to House with Amendments	02/15/1999			
(S) 3rd Reading Concurred	02/15/1999	50	0	
(S) Scheduled for 3rd Reading	02/15/1999			
(S) 2nd Reading Concurred	02/13/1999	45	0	
(S) Scheduled for 2nd Reading	02/13/1999			
(S) Scheduled for 2nd Reading	02/12/1999			
(S) Scheduled for 2nd Reading	02/11/1999			
(S) Scheduled for 2nd Reading	02/10/1999			
(S) Committee Report--Bill Concurred as Amended	02/09/1999			(S) Taxation
(S) Committee Executive Action--Bill Concurred as Amended	02/09/1999	6	0	(S) Taxation
(S) Hearing	02/09/1999			(S) Taxation
(S) Referred to Committee	01/27/1999			(S) Taxation

(S) First Reading	01/27/1999			
(H) Transmitted to Senate	01/18/1999			
(H) 3rd Reading Passed	01/18/1999	96	3	
(H) Scheduled for 3rd Reading	01/18/1999			
(H) 2nd Reading Passed	01/16/1999	93	5	
(H) Scheduled for 2nd Reading	01/16/1999			
(H) Committee Report--Bill Passed as Amended	01/14/1999			(H) Taxation
(H) Committee Executive Action--Bill Passed as Amended	01/14/1999	18	2	(H) Taxation
(H) Hearing	01/11/1999			(H) Taxation
(H) Sponsor List Modified	01/05/1999			
(H) First Reading	01/04/1999			
(H) Referred to Committee	12/21/1998			(H) Taxation
(C) Introduced Bill Text Available Electronically	12/14/1998			
(H) Introduced	12/14/1998			
(C) Pre-Introduction Letter Sent	12/09/1998			
(C) Pre-Introduction Letter Sent	12/09/1998			
(C) Draft in Assembly/Executive Director Review	12/09/1998			
(C) Draft in Final Drafter Review	12/08/1998			
(C) Bill Draft Text Available Electronically	12/08/1998			
(C) Draft in Input/Proofing	12/08/1998			
(C) Draft to Drafter/Edit Review (SAB)	12/07/1998			
(C) Draft in Edit	12/07/1998			
(C) Draft in Legal Review	12/07/1998			
(C) Draft to Requester for Review	12/02/1998			
(C) Draft to Requester for Review	12/01/1998			
(C) Draft to Requester for Review	11/30/1998			
(C) Draft Request Received	09/23/1998			

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name	Mi
Requester	Legislative Council		
Drafter	Heiman	Lee	
By Request Of	State Tax Appeal Board		
Primary Sponsor	Harper	Hal	

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
State Government		Simple	STGO
Taxation--Property		Simple	TXPR

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Additional Bill Information

Probable Fiscal Note: No
Preintroduction Required: Y
Session Law Ch. Number: 56
DEADLINE
Category: Revenue Bills
Transmittal Date: 03/30/1999
Return (with 2nd house amendments) Date: 04/15/1999

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

Section Effective Dates

Section(s)	Effective Date	Date Qualified
All Sections	01-OCT-99	

| Top | Actions | Sponsor, etc. | Subjects | Add'l Bill Info | Eff. Dates | New Search |

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MONTANA ONLINE

HOUSE BILL NO. 82

INTRODUCED BY HARPER H

BY REQUEST OF THE STATE TAX APPEAL BOARD

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PROCEDURES REGARDING COUNTY TAX APPEAL BOARDS; PROVIDING THAT COUNTY TAX APPEAL BOARDS ARE IN SESSION FROM JULY 1 TO DECEMBER 31 OF THE CURRENT TAX YEAR; CHANGING THE DATE FOR NOTICE OF THE TIME THE COUNTY TAX APPEAL BOARD WILL MEET; PROVIDING FOR THE FILING OF APPLICATIONS FOR REDUCTION OF PROPERTY TAXES WITH THE COUNTY CLERK AND RECORDER; AND AMENDING SECTIONS 15-7-102, 15-15-101, 15-15-102, AND 15-15-103, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-7-102, MCA, is amended to read:

"**15-7-102. Notice of classification and appraisal to owners -- appeals.** (1) (a) The department shall mail to each owner or purchaser under contract for deed a notice of the classification of the land owned or being purchased and the appraisal of the improvements on the land only if one or more of the following changes pertaining to the land or improvements have been made since the last notice:

(i) change in ownership;

(ii) change in classification;

(iii) except as provided in subsection (1)(b), change in valuation; or

(iv) addition or subtraction of personal property affixed to the land.

(b) After the first year, the department is not required to mail the notice provided for in subsection (1)(a)(iii) if the change in valuation is the result of an incremental change in valuation caused by the phasing in of a reappraisal.

(c) The notice must include the following for the taxpayer's informational purposes:

(i) the total amount of mills levied against the property in the prior year; and

(ii) a statement that the notice is not a tax bill.

(d) Any misinformation provided in the information required by subsection (1)(c) does not affect the validity of the notice and may not be used as a basis for a challenge of the legality of the notice.

(2) (a) Except as provided in subsection (2)(c), the department shall assign each assessment to the correct owner or purchaser under contract for deed and mail the notice of classification and appraisal on a standardized form, adopted by the department, containing sufficient information in a comprehensible manner designed to fully inform the taxpayer as to the classification and appraisal of the property and of changes over the prior tax year.

(b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an appeal of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in 15-1-402.

(c) The department is not required to mail the notice of classification and appraisal to a new owner or purchaser under contract for deed unless the department has received the transfer certificate from the clerk and recorder as provided in 15-7-304 and has processed the certificate before the notices required by subsection (2)(a) are mailed. The department shall notify the county tax appeal board of the date of the mailing ~~is the date reported to the county tax appeal board pursuant to 15-15-101~~.

(3) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the market value of the property as determined by the department or with the classification of the land or improvements, the owner may request an assessment review by submitting an objection in writing to the department, on forms provided by the department for that purpose, within 30 days after receiving the notice of classification and appraisal from the department. The review must be conducted informally and is not subject to the contested case procedures of the Montana Administrative Procedure Act. As a part of the review, the department may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer in support of the taxpayer's opinion as to the market value of the property. The department shall give reasonable notice to the taxpayer of the time and place of the review. After the review, the department shall determine the correct appraisal and classification of the land or improvements and notify the taxpayer of its determination. In the notification, the department shall state its reasons for revising the classification or appraisal. When the proper appraisal and classification have been determined, the land must be classified and the improvements appraised in the manner ordered by the department.

(4) Whether a review as provided in subsection (3) is held or not, the department may not adjust an appraisal or classification upon the taxpayer's objection unless:

(a) the taxpayer has submitted an objection in writing; and

(b) the department has stated its reason in writing for making the adjustment.

(5) A taxpayer's written objection to a classification or appraisal and the department's notification to the taxpayer of its determination and the reason for that determination are public records. The department shall make the records available for inspection during regular office hours.

(6) If any property owner feels aggrieved by the classification or appraisal made by the department after the review provided for in subsection (3), the property owner has the right to first appeal to the county tax appeal board and then to the state tax appeal board, whose findings are final subject to the right of review in the courts. The appeal to the county tax appeal board must be filed within 30 days after notice of the department's determination is mailed to the taxpayer. A county tax appeal board or the state tax appeal board may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or the state tax appeal board determines that an adjustment should be made, the department shall adjust the base value of the property in accordance with the board's order."

Section 2. Section 15-15-101, MCA, is amended to read:

"**15-15-101. County tax appeal board -- meetings and compensation.** (1) The board of county commissioners of each county shall appoint a three-member county tax appeal board, with the members to serve staggered terms of 3 years each. The members of each county tax appeal board must be residents of the county in which they serve. The members receive compensation of $45 a day and travel expenses, as provided for in 2-18-501 through 2-18-503, only when the county tax appeal board ~~is in session~~ meets to hear taxpayers' appeals from property tax assessments or when they are attending meetings called by the state tax appeal board. Travel expenses and compensation must be paid from the appropriation to the state tax appeal board. Office space and equipment for the county tax appeal boards must be furnished by the county. All other incidental expenses must be paid from the appropriation of the state tax appeal board.

(2) The county tax appeal board shall hold an organizational meeting each year on the date of its first scheduled hearing, immediately before conducting the business for which the hearing was otherwise scheduled. It shall continue in session ~~from time to time~~ from July 1 of the current tax year until December 31 of the current tax year to hear protests concerning assessments made by the department

until the business of hearing protests is disposed of~~, but, except~~ and, as provided in 15-2-201, may meet after December 31 ~~not later than 60 days after the department:~~

~~(a) has mailed notice of classification and appraisal to all property owners and purchasers under contracts for deed as required in 15-7-102; and~~

~~(b) has notified the county tax appeal board that classification and appraisal notices have been mailed to all property owners and purchasers under contracts for deed~~.

(3) In connection with an appeal, the county tax appeal board may change any assessment or fix the assessment at some other level. ~~The~~ Upon notification by the county tax appeal board, the county clerk and recorder shall publish a notice to taxpayers, giving the time the county tax appeal board will ~~meet~~ be in session to hear scheduled protests concerning assessments and the latest date the county tax appeal board may take applications for the hearings. The notice must be published in a newspaper if any is printed in the county or, if none, then in the manner that the county tax appeal board directs. The notice must be published ~~at least 7 days prior to the first meeting of the county tax appeal board~~ by May 15 of the current tax year.

(4) Challenges to a department rule governing the assessment of property or to an assessment procedure apply only to the taxpayer bringing the challenge and may not apply to all similarly situated taxpayers unless an action is brought in the district court as provided in 15-1-406."

Section 3. Section 15-15-102, MCA, is amended to read:

"**15-15-102. Application for reduction in valuation.** The valuation of property may not be reduced by the county tax appeal board unless either the taxpayer or the taxpayer's agent makes and files a written application for reduction with the county tax appeal board. The application for reduction may be obtained at the local appraisal office or from the county tax appeal board. The completed application must be submitted to the county clerk and recorder. The date of receipt is the date stamped on the appeal form by the county clerk and recorder upon receipt of the form. The county tax appeal board is responsible for obtaining filed applications from the county clerk and recorder. The application must be ~~filed~~ submitted on or before the first Monday in June or 30 days after receiving either a notice of classification and appraisal or determination after review under 15-7-102(3) from the department, whichever is later. If the department's determination after review is not made in time to allow the county tax appeal board to review the matter during the current tax year, the appeal must be reviewed during

the next tax year, but the decision by the county tax appeal board is effective for the year in which the request for review was filed with the department. The application must state the post-office address of the applicant, specifically describe the property involved, and state the facts upon which it is claimed the reduction should be made."

Section 4. Section 15-15-103, MCA, is amended to read:

"**15-15-103. Examination of applicant -- failure to hear application.** (1) Before the county tax appeal board grants any application or makes any reduction applied for, it shall examine on oath the person or agent making the application, touching the value of the property of each person. A reduction may not be made unless the applicant makes an application, as provided in 15-15-102, and attends the county tax appeal board hearing. An appeal of the board's decision may not be made to the state tax appeal board unless the person or the person's agent has exhausted the remedies available through the county tax appeal board. In order to exhaust the remedies, the person or the person's agent shall attend the county tax appeal board hearing. On written request by the person or the person's agent and on the written concurrence of the department of revenue, the county tax appeal board may waive the requirement that the person or the person's agent attend the hearing. The testimony of all witnesses at the hearing must be electronically recorded and preserved for 1 year. If the decision of the county tax appeal board is appealed, the record of the proceedings, including the electronic recording of all testimony, must be forwarded, together with all exhibits, to the state tax appeal board. The date of the hearing, the proceedings before the board, and the decision must be entered upon the minutes of the board, and the board shall notify the applicant of its decision by mail within 3 days. A copy of the minutes of the county tax appeal board must be transmitted to the state tax appeal board no later than 3 days after the board holds its final hearing of the year.

(2) If a county tax appeal board refuses or fails to hear a taxpayer's timely application for a reduction in valuation of property, the taxpayer's application is considered to be granted on the day following the board's final meeting for that year. The department shall enter the appraisal or classification sought in the application in the property tax record. An application is not automatically granted for the following appeals:

(a) those listed in 15-2-302; and

(b) if a taxpayer's appeal from the department's determination of classification or appraisal made

1 pursuant to 15-7-102 was not received in time, as provided for in 15-15-102, to be considered by the
2 board during its current ~~60-day~~ session."
3 - END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN CHASE HIBBARD**, on January 11, 1999 at 8:00 A.M., in Room 437 Capitol.

ROLL CALL

Members Present:

Rep. Chase Hibbard, Chairman (R)
Rep. Kim Gillan, Vice Chairman (D)
Rep. Bob Story, Vice Chairman (R)
Rep. Gary Beck (D)
Rep. Rick Dale (R)
Rep. Bob Davies (R)
Rep. Ron Erickson (D)
Rep. Daniel Fuchs (R)
Rep. Mary Anne Guggenheim (D)
Rep. Marian Hanson (R)
Rep. Hal Harper (D)
Rep. John L. Holden (R)
Rep. Verdell Jackson (R)
Rep. Scott J. Orr (R)
Rep. Bob Raney (D)
Rep. Bill Rehbein (R)
Rep. Sam Rose (R)
Rep. Trudi Schmidt (D)
Rep. Roger Somerville (R)

Members Excused: Rep. Dan Harrington (D)

Members Absent: None.

Staff Present: Donna Grace, Committee Secretary
Jeff Martin, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:

HJR 2 (1/5/99), Discussion only
HB 82 (1/4/99)
HB 137 (1/5/95)

Executive Action: None.

The meeting opened with a discussion on the procedure to be used during consideration of HJR 2, Revenue Estimating Resolution,. ***{Tape : 1; Side : A; Approx. Time Counter : 0}***

Clayton Schenk, Director, Legislative Fiscal Division, addressed the Revenue Oversight Committee's revenue estimate recommendations for the fiscal period 1999, 2000, and 2001. The Legislative Fiscal Division also presented a historical comparison of actual revenue versus the estimates. **EXHIBIT(tah07a01)**
{Tape : 1; Side : A; Approx. Time Counter : 5.9}

Terry Johnson, Legislative Services Division, discussed General Fund Revenue Estimate Comparisons. **EXHIBIT(tah07a02)**
{Tape : 1; Side : A; Approx. Time Counter : 13.8}

Questions from Committee Members:
{Tape : 1; Side : B; Approx. Time Counter : 11.2}

Clayton Schenk, closing statement.
{Tape : 1; Side : B; Approx. Time Counter : 19.6}

Dolores Cooney, Department of Revenue, provided additional information to the Committee relative to reappraisal. **EXHIBIT(tah07a03)**
Ms. Cooney also issued an invitation for Committee Members to view a live demonstration of the BEVS, CAMUS, and MODS systems in place at the Department of Revenue. **EXHIBIT(tah07a04)**
{Tape : 1; Side : B; Approx. Time Counter : 20.9}

HEARING ON HB 82

Opening Statement by Sponsor:

Rep. Hal Harper, HD 52, opened the hearing on HB 82. He said the bill was requested by the State Tax Appeal Board and would simplify the system.
{Tape : 2; Side : A; Approx. Time Counter : 4.1}

Proponents' Testimony:

Pat McKelvey, Chairman, State Tax Appeal Board. EXHIBIT(tah07a05)
{Tape : 2; Side : A; Approx. Time Counter : 8}

Dave Woodgerd, Chief Counsel, DOR.
{Tape : 2; Side : A; Approx. Time Counter : 22.9}

Brenda Nordlund, Department of Justice.
{Tape : 2; Side : A; Approx. Time Counter : 23.6}

Opponents' Testimony: None.

Questions from Committee Members and Responses:
{Tape : 2; Side : A; Approx. Time Counter : 25.5}

Closing

Rep. Harper closed the hearing.
{Tape : 2; Side : B; Approx. Time Counter : 7.9}

HEARING ON HB 137

Opening Statement by Sponsor:

Rep. Sheil Anderson, HD 5, opened the hearing. He said it would provide taxpayers with a method for mediation on independent (non-property tax) appeals.
{Tape : 2; Side : B; Approx. Time Counter : 9.4}

Proponents:

Dave Woodgerd, Chief Counsel, Department of Revenue.
{Tape : 2; Side : B; Approx. Time Counter : 13.5}

Pat McKelvey, Chairman, State Tax Appeal Board.
{Tape : 3; Side : A; Approx. Time Counter : 2.4}

Opponents: None.

Questions from Committee Members and Responses:
{Tape : 3; Side : A; Approx. Time Counter : 3.9}

Closing by Sponsor:

Rep. Anderson closed the hearing.

EXHIBIT 5
DATE 1-11-99
HB 82

The changes proposed for the tax appeal system in HB 82 are the result of a meeting held by the State Tax Appeal Board with local board members from across the state a year ago. The purpose was to obtain the ideas of those who run the appeal process at the local level and get their ideas on what might be done to simplify the system and update it to the changes that have occurred over the past years.

Changes by item.

Page 3---15-7-102 (2)(c). This is merely rewording of the present requirement for the DOR to notify the local boards that notices of classification and appraisal have been mailed.

Page 5---15-15-101(1). Again a language change to clarify that local board members are only paid for the days that they meet, not the entire session length. This requirement will become evident as we move through the bill.

Page 6---15-15-101(2). We are establishing a definite time for the local board session to start...and to end. In the past, the beginning of their session, which is 60 days, was initiated by the DOR notification that all of the notices of classification and appraisal have been sent. That date has been a moving target and was not the same for all counties statewide. When asked, very few of the local board members could tell us when their session started under the present law, and consequently would not know when it ended.

This is important more so from the end date side . The statute says that if a County Tax Appeal Board goes out of session and has failed to hear a taxpayers timely filed appeal, the taxpayer automatically wins the appeal and is granted whatever it is that was asked for. We have experienced several instances of this happening in the past two years. At least 8 counties have been affected by this provision.

This change will also help the local boards deal more timely with those appeals that are filed after the taxpayer has dealt with the Dept of Revenue through that agency's internal review process referred to as the AB-26 process. Many times taxpayer appeals from that review are filed too late for the local board to hear during the current session. The current law allows the CTAB to hear such an appeal during their next session, but that often means another year has passed before a hearing is held and any action on the appeal is taken.

We are trying to realign the session length so that neither of these occurrences is necessary. The bill leaves in the provisions of an extension of the session beyond December 31 of the current year, if the local board believes it is necessary and requests it from the State Board.

Pg6-- 15-15-101(3). This issue is also one that has been a source of frequent misunderstanding by the local boards and the local Clerk and Recorders offices. The notice requirement for letting the taxpaying public know that they have an appeal right, the statutory deadlines for filing an appeal, where to file an appeal, and then when the local board will be in session to actually conduct hearings on any timely filed appeals.

We believe these few changes make the required notification understandable and simple. The CTAB must remind the Clerk and Recorder that the notice needs to be published by May 15th of the current year. That is a date that can be put on the "things I have to do calendar." Why May 15th? The current requirement is for the notice to be published 7 days prior to the first meeting of the local board. It only follows that if the local board was unsure about when that was---how could the Clerk and Recorder know! Consequently we know of instances where it probably was not published correctly. Also, it was interpreted in some cases to mean, published as if the county board was physically sitting in the court house waiting for people to come in and appeal their grievances. We all know that is not the case. It is meant to be a notification to the taxpayers that they only have 30 days after receipt of the notice of classification and appraisal or until the first Monday in June to file an appeal. This is important since the DOR is not required to mail such a notice to the taxpayers every year. We cannot do away with this publication altogether, it needs to be clarified so it is understood and gets done.

Page 7. 15-15-102. The next issue is where the appeal form is obtained and where appeals should be submitted. Currently the appeal forms are turned in to a host of locations in the court house. Many counties have a dedicated mail box for their local board. Most do not. Even in those that do the mail is picked up sporadically so the timeliness of filing the appeal becomes an issue. In some counties the appeal is filed with the DOR appraisal office. In some counties the appeal is mailed to the board at their home addresses. This requested change was made because some counties have experienced the loss of a filed appeal, and actually some appeals have been rejected for various reasons before the local board had an opportunity to hear them.

What this change does is provide a standardized location statewide for the receipt of the completed appeal form. There is no requirement for the Clerk and Recorder to do anything other than date stamp the appeal (so timeliness is determined easily) and place it in a drop box for the CTAB. The appeal is not "filed" in the legal sense of that words meaning to the Clerk and Recorder. The appeal board secretary is then responsible for distribution of the appeal to the parties, the DOR and the local Board. They then go through their established procedures for docketing and hearing the appeal.

Page 9. 15-15-103(2)(b). This merely deletes another reference to the 60 day session.

HOUSE TAXATION COMMITTEE - 1999

ROLL CALL

DATE OF MEETING 1-11-99

NAME	PRESENT	ABSENT	EXCUSED
Rep. Beck	✓		
Rep. Dale	✓		
Rep. Davies	✓		
Rep. Erickson	✓		
Rep. Fuchs	✓		
Rep. Gillan	✓		
Rep. Guggenheim	✓		
Rep. Hanson	✓		
Rep. Harper	✓		
Rep. Harrington			✓
Rep. Holden	✓		
Rep. Jackson	✓		
Rep. Orr	✓		
Rep. Raney	✓		
Rep. Rehbein	✓		
Rep. Rose	✓		
Rep. Schmidt	✓		
Rep. Somerville	✓		
Rep. Storey	✓		
Rep. Hibbard	✓		

VISITOR REGISTER

HOUSE TAXATION COMMITTEE

DATE: 1-11-99

BILL NO: HB 82 SPONSOR: Harper

NAME AND ADDRESS (PLEASE PRINT)	REPRESENTING	TYPE OF WITNESS		
		Informa-tional	Support	Oppose
Dave Woodgerd	Dept. of Revenue		X	
Brenda Nordlund	DOJ		X	
Pat McKelvey	STAB		X	

Please leave prepared testimony with secretary.
Witness statement forms are available if you care to submit written testimony.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN CHASE HIBBARD**, on January 14, 1999 at 8:00 A.M., in Room 437 Capitol.

ROLL CALL

Members Present:

Rep. Chase Hibbard, Chairman (R)
Rep. Kim Gillan, Vice Chairman (D)
Rep. Bob Story, Vice Chairman (R)
Rep. Gary Beck (D)
Rep. Rick Dale (R)
Rep. Bob Davies (R)
Rep. Ron Erickson (D)
Rep. Daniel Fuchs (R)
Rep. Marian Hanson (R)
Rep. Hal Harper (D)
Rep. Dan Harrington (D)
Rep. John L. Holden (R)
Rep. Verdell Jackson (R)
Rep. Scott J. Orr (R)
Rep. Bob Raney (D)
Rep. Bill Rehbein (R)
Rep. Sam Rose (R)
Rep. Trudi Schmidt (D)
Rep. Roger Somerville (R)

Members Excused: Rep. Mary Anne Guggenheim (D)

Members Absent: None.

Staff Present: Donna Grace, Committee Secretary
Jeff Martin, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:
HB 138, (1/7/99)
HB 139, (1/7/99)
HB 87 (1/12/99)
HB 206 (1/11/99)

Executive Action:

HB 82 - Do Pass as Amended
HB 138 - Do Pass
HB 139 - Do Pass

HEARING ON HB 138

Opening Statement by Sponsor:

Rep. Hal Harper, House District 52, opened the hearing. The bill would eliminate the license fee for wholesale gas distributors.
{Tape : 1; Side : A; Approx. Time Counter : 0}

Proponents' Testimony:

Bob Turner, Montana Department of Transportation.
EXHIBIT(tah10a01)
{Tape : 1; Side : A; Approx. Time Counter : 4.6}

Bob Gilbert, Montana Petroleum Distributors.
{Tape : 1; Side : A; Approx. Time Counter : 5.5}

Opponents' Testimony:

None.

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 7.1}

Closing by Sponsor

Rep. Harper closed the hearing.
{Tape : 1; Side : A; Approx. Time Counter : 8.0}

HEARING ON HB 139

Closing by Sponsor:

Rep. Fisher closed the hearing.
{Tape : 2; Side : A; Approx. Time Counter : 24.7}

EXECUTIVE ACTION ON HB 82

Motion:

REP. GILLAN moved that **HB 82 DO PASS.**
{Tape : 2; Side : A; Approx. Time Counter : 27.3}

Motion/Vote:

REP. STORY moved a technical amendment. **EXHIBIT(tah10a05)**
On a voice vote, the motion passed unanimously 17 - 0.
{Tape : 2; Side : A; Approx. Time Counter : 29.9}

Discussion:

{Tape : 2; Side : B; Approx. Time Counter : 0}

Motion/Vote:

REP. HANSON moved that **HB 82, AS AMENDED DO PASS. The motion passed, 18 - 2.** Davies and Orr voted no.
{Tape : 2; Side : B; Approx. Time Counter : 2.3}

EXECUTIVE ACTION ON HB 138

Motion/Vote:

REP. HANSON moved that **HB 138 DO PASS. On a voice vote, the motion passed unanimously, 20 - 0.**
{Tape : 2; Side : B; Approx. Time Counter : 5.2}

EXECUTIVE ACTION ON HB 139

Motion/Vote:

EXHIBIT 5
DATE 1-14-99
HB 82

Amendments to House Bill No. 82
1st Reading Copy

For the House Taxation Committee

Prepared by Lee Heiman
January 5, 1999

1. Page 4, line 26.
Strike: "filed"
Insert: "the"

- END -

COMMITTEE ABSENTEE BALLOT

Date: _____

I hereby authorize Rep. Gillen

to cast my vote(s) as follows:

HB82 yes

Representative Hope

COMMITTEE ABSENTEE BALLOT

Date: _____

I hereby authorize Rep. Bell

to cast my vote(s) as follows:

HB 82 Yes

Representative Mary Anne Guggenheim

COMMITTEE ABSENTEE BALLOT

Date: 1-14-98

I hereby authorize Rep. SCOTT ORR

to cast my vote(s) as follows:

HB 82 - NO

HB137 - NO

VOTE WITH REP. STORY ON ALL OTHER BILL AND PROCEDURAL QUESTIONS.

Representative

1/14/99

I HEREBY AUTHORIZE REP. STORY TO CAST

MY VOTES AS FOLLOWS:

HB 82 - NO

HB 137 - NO

AND TO VOTE WITH HIM ON ANY
OTHER BILLS OR PROCEDURAL QUESTIONS.

S.J. Orr

HOUSE TAXATION COMMITTEE - 1999

ROLL CALL

DATE OF MEETING 1-14-99

NAME	PRESENT	ABSENT	EXCUSED
Rep. Beck	✓		
Rep. Dale	✓		
Rep. Davies	✓		
Rep. Erickson	✓		
Rep. Fuchs	✓		
Rep. Gillan	✓		
Rep. Guggenheim			✓
Rep. Hanson	✓		
Rep. Harper	✓		
Rep. Harrington	✓		
Rep. Holden	✓		
Rep. Jackson	✓		
Rep. Orr	✓		
Rep. Raney	✓		
Rep. Rehbein	✓		
Rep. Rose	✓		
Rep. Schmidt	✓		
Rep. Somerville	✓		
Rep. Story	✓		
Rep. Hibbard	✓		

HOUSE STANDING COMMITTEE REPORT

January 14, 1999

Mr. Speaker:

We, your committee on **Taxation** report that **House Bill 82** (first reading copy -- white) **do pass as amended**.

Signed: _____
Representative Chase Hibbard, Chair

And, that such amendments read:

1. Page 4, line 26.
Strike: "filed"
Insert: "the"

- END -

11:55
1-14

Committee Vote:
Yes 18, No 2.

101138SC.ham

Voice Vote

HOUSE TAXATION COMMITTEE - 1999

ROLL CALL VOTE

BILL NO. 82 DATE OF MEETING 1-14-99

MOTION: do pass as amended (Hanson)

NAME	PRESENT	ABSENT	EXCUSED
Rep. Beck			
Rep. Dale			
Rep. Davies	No		
Rep. Erickson			
Rep. Fuchs			
Rep. Gillan			
Rep. Guggenheim	Aye		
Rep. Hanson			
Rep. Harper	Aye		
Rep. Harrington			
Rep. Holden			
Rep. Jackson			
Rep. Orr	No		
Rep. Raney			
Rep. Rehbein			
Rep. Rose			
Rep. Schmidt			
Rep. Somerville			
Rep. Storey			
Rep. Hibbard			

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **VICE CHAIRMAN BOB DEPRATU**, on February 9, 1999 at 9:00 A.M., in Room 413/415 Capitol.

ROLL CALL

Members Present:

Sen. Gerry Devlin, Chairman (R)
Sen. Bob DePratu, Vice Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Dorothy Eck (D)
Sen. E. P. "Pete" Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Alvin Ellis Jr.(R)
Sen. Bill Glaser (R)
Sen. Barry "Spook" Stang (D)

Members Excused: None

Members Absent: None

Staff Present: Sandy Barnes, Committee Secretary
Lee Heiman, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 82, 2/3/1999; HB 137, 2/3/1999; HB 138, 2/3/1999; HB 139, 2/3/1999

Executive Action: HB 137, HB 82, HB 138, HB 139

HEARING ON HB 82

Sponsor: **REPRESENTATIVE HAL HARPER, HD 52, HELENA**

Proponents: **Pat McKelvey, Chairman, State Tax Appeal Board**
Dave Woodgerd, Chief Council, Department of Revenue

Opponents: None

Opening Statement by Sponsor:

REP. HAL HARPER, HD 52, Helena, said **HB 82** is a bill requested by the State Tax Appeal Board after meeting with local tax appeal boards across the state and getting suggestions on ways to improve and simplify the present appeal board system. This bill revises the procedures that apply to county tax appeal boards, specifies certain dates that they are to be in session, specifies the date for notice, and it specifies where applications for the reduction of property taxes are going to be submitted. He suggested one amendment on page 1, line 8, the bill title, changing "filing" to "submission," **EXHIBIT(tas32a01).**

REP. HARPER went through the changes in the bill. He said starting with page 2, line 12, the language is merely a rewording of the present requirements from the Department of Revenue to notify the local boards that notices of classification and appraisal have been mailed. Page 3, line 21, again, is a language change that clarifies that local board members are only paid for the days they meet. Page 3, line 29, establishes a definite time for local board sessions to start and to end. Page 4, line 8, is the notice requirements for letting the taxpayer know that they have the right to appeal, the statutory deadline for filing of the appeal, where to file an appeal and when the local board will be in session and actually conducting hearings. And finally, page 4, line 22, specifies where the appeals form is obtained and where it should be submitted.

REP. HARPER said this bill makes a lot of sense. It simplifies the process and makes it easier to deal with the appeal process.

Proponents' Testimony:

Pat McKelvey, Chairman, State Tax Appeal Board, submitted written testimony, **EXHIBIT(tas32a02).** He said he wanted to expand on why the State Tax Appeal Board is asking for these changes. In the 12 years that he has been a part of the Board, there has always been a problem with the session lengths and with session start points and end points for the county tax appeal board members. He said this bill is a result of a meeting with the county tax appeal boards in answer to their suggestions for needed changes in the tax appeal process.

Mr. McKelvey said that the language for the definite start and definite length of the session was one of the most important things that they requested. Not only did they not have a set

session time and length, often they were requesting extensions beyond the 60 days, so the change was made to six months. They can still request an extension if necessary.

Mr. McKelvey went on to say that the issue of the publication of the notice was very confusing, so that has been set as May 15th, which allows plenty of time for the jurisdictional response. This also clarifies where the appeal form was to be submitted and how that is handled, which will also simplify that process. He said this bill should simplify the process and make it more workable for the tax appeal boards and the taxpayers.

Dave Woodgerd, Chief Council, Department of Revenue, said that the Department feels this bill is good for the taxpayer, and it will resolve some issues that the Department of Revenue has had.

Opponents' Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

REP. HARPER had no closing statement.

HEARING ON HB 138

Sponsor: **REPRESENTATIVE HAL HARPER, HD 52, HELENA**

Proponents: **Robert Turner, Department of Transportation**
Ronna Alexander, Montana Petroleum Marketers Association

Opponents: **None**

Opening Statement by Sponsor:

REP. HAL HARPER, HD 52, Helena, said **HB 138** eliminates the annual license renewal fee of $200 for wholesale gasoline and special fuel distributors. It eliminates the requirement for fuel dealers to go through a licensing process in order for their customers to obtain a refund for fuel used off roads. The Fiscal Note reflects a cost to the state of about $8,800 a year, but the Department feels that their staff time could be better spent doing other things, and it is their suggestion that these be eliminated.

Proponents' Testimony:

corporations and similar enterprises, and then on line 28, the term "person" is defined as "individuals."

SEN. ECK asked if someone in the director's office would be designated as a mediator, and asked whether that would be a full-time mediator position or someone who does other things. **Mr. Woodgerd** said that is still undecided. He said that presently there are two people in that office that are essentially hearings examiners, and it is being considered that those people will also be trained as mediators as well as hearings examiners.

SEN. ECK then asked if in all cases it would be this person where the issue first comes, or would the Department have a lot of employees who are trained in the area of conflict resolution, and **Mr. Woodgerd** said that that is the goal of the Department, to develop a little better understanding of the taxpayers' concerns on the part of the employees.

Closing by Sponsor:

REP. ANDERSON said that this measure passed the House with a strong majority, so he encouraged passage by the committee.

NOTE: CHAIRMAN DEVLIN resumed the chair.

EXECUTIVE ACTION ON HB 137

Motion/Vote: SEN. ELLIS moved HB 137 BE CONCURRED IN. Motion carried 6-0.

CHAIRMAN DEVLIN asked **SEN. ELLIS** to carry this bill.

EXECUTIVE ACTION ON HB 82

Discussion:

SEN. DEPRATU reminded the committee that **REP. HARPER** had mentioned wanting to amend the title to read "submission" rather than "filing." **Mr. Heiman** said that technically, that was correct, that it should read "submission," but that he did not see a problem in leaving it the way it is. The committee decided that it should be changed to make it consistent with the rest of the bill.

Motion/Vote: SEN. ECK moved the amendment. Motion carried 6-0.

Motion/Vote: SEN. ECK moved HB 82 BE CONCURRED IN AS AMENDED. Motion carried 6-0.

CHAIRMAN DEVLIN asked **SEN. ECK** to carry this bill.

EXECUTIVE ACTION ON HB 138

Motion/Vote: SEN. GLASER moved HB 138 BE CONCURRED IN. Motion carried 7-0.

CHAIRMAN DEVLIN asked **SEN. GLASER** to carry this bill.

EXECUTIVE ACTION ON HB 139

Motion/Vote: SEN. GLASER moved HB 139 BE CONCURRED IN. Motion carried 7-0.

CHAIRMAN DEVLIN asked **SEN. GLASER** to carry this bill.

DISCUSSION ON SB 111

CHAIRMAN DEVLIN asked if there was any additional information available on **SB 111**, and **Mary Bryson, Director, Department of Revenue**, provided copies of a memo from her to **CHAIRMAN DEVLIN** regarding intangible property - fiscal impacts, **EXHIBIT(tas32a03)**. She said that the Department has estimated that the fiscal impact of exempting the first $1 million of market value proposed by **SEN. DEPRATU'S** amendment, as it relates to the centrally assessed properties, would reduce the fiscal impact to state and local governments to an estimated $890,000, down from $9.5 million. She said this estimate is based solely on the impacts of centrally assessed companies, as was the original Fiscal Note.

Ms. Bryson went on to say that the proposed amendment would also produce additional revenues from taxpayers that are currently not being taxed on their intangible property, but the Department cannot offer an estimate of what that impact might be because presently that is not valued.

Ms. Bryson also said the committee had asked a question about what would be the fiscal impact of exempting each or combinations of the intangible property as listed in the proposed legislation, and she said the impact would be somewhere between the $9.5 million and $900,000. She said the Department believes that a smaller list of intangibles may produce some intangibles that can be identified and valued, such as liquor licenses. She said that liquor licenses alone could generate between $6 million and $7 million in revenue annually. That is separate from the $1 million exemption. This would be if certain intangibles were required to be subject to taxation. If the $1 million exemption

SENATE TAXATION
DATE 2/9/99
EXHIBIT NO. 1
BILL NO. SB 82

Amendments to House Bill No. 82
3rd Reading Copy

Requested by Representative Hal Harper

For the Senate Taxation Committee

Prepared by Lee Heiman
February 9, 1999

1. Title, line 8.
Strike: "FILING"
Insert: "SUBMISSION"

- END -

SENATE TAXATION
DATE 2-9-99
EXHIBIT NO. 2
BILL NO. HB 82

The changes proposed for the tax appeal system in HB 82 are the result of a meeting held by the State Tax Appeal Board with local board members from across the state a year ago. The purpose was to obtain the ideas of those who run the appeal process at the local level and get their ideas on what might be done to simplify the system and update it to the changes that have occurred over the past years.

Changes by item.

Page 2 – 15-7-102 (2) (c). This is merely a rewording of the present requirement for the DOR to notify the local boards that notices of classification and appraisal have been mailed.

Page 3 – 15-15-101(1). Again a language change to clarify that local board members are only paid for the days that they meet, not the entire session length. This requirement will become evident as we move through the bill.

Page 3 – 15-15-101 (2). We are establishing a definite time for the local board session to start . . . and to end. In the past, the beginning of their session, which is 60 days, was initiated by the DOR notification that all of the notices of classification and appraisal have been sent. That date has been a moving target and was not the same for all counties statewide. When asked, very few of the local board members could tell us when their session started under the present law, and consequently would not know when it ended.

This is important more so from the end date side. The statute says that if a county tax appeal board goes out of session and has failed to hear a taxpayer's timely filed appeal, the taxpayer automatically wins the appeal and is granted whatever it is that was asked for. We have experienced several instances of this happening in the past two years. At least 8 counties have been affected by this provision.

This change will also help the local boards deal more timely with those appeals that are filed after the taxpayer has dealt with the Department of Revenue through that agency's internal review process referred to as the AB-26 process. Many times the taxpayer appeals from that review are filed too late for the local board to hear during the current session. The current law allows the county tax appeal board to hear such an appeal during their next session, but that often means another year has passed before a hearing is held and any action on an appeal is taken.

We are trying to realign the session length so that neither of these occurrences is necessary. The bill leaves in the provisions of an extension of that session beyond December 31 of the current year, if the local board believes it is necessary and requests it from the State Board.

Page 4 – 15-15-101 (3). This issue is also one that has been a source of frequent misunderstanding by the local boards and the local Clerk and Recorder's offices. The notice requirement for letting the taxpaying public know that they have an appeal right,

the statutory deadlines for filing an appeal, where to file an appeal, and then when the local board will be in session to actually conduct hearings on any timely filed appeals.

We believe these few changes make the required notification understandable and simple. The CTAB must remind the Clerk and Recorder that the notice needs to be published by May 15 of the current year. That is a date that can be put on the "things I have to do" calendar. Why May 15? The current requirement is for the notice to be published 7 days prior to the first meeting of the local board. It only follows that if the local board was unsure about when that was – how could the Clerk and Recorder know! Consequently, we know of instances where it probably was not published correctly. Also, it was interpreted in some cases to mean, published as if the county board was physically sitting in the courthouse waiting for people to come in and appeal their grievances. We all know this is not the case. It is meant to be a notification to the taxpayers that they only have 30 days after receipt of the notice of classification and appraisal or until the first Monday in June to file an appeal. This is important since the DOR is not required to mail such a notice to the taxpayers every year. We cannot do away with this publication altogether. It needs to be clarified so it is understood and gets done.

Page 4. 15-15-102. The next issue is where the appeal form is obtained and where appeals should be submitted. Currently the appeal forms are turned into a host of locations in the courthouse. Many counties have a dedicated mailbox for their local board. Most do not. Even in those that do, the mail is picked up sporadically so the timeliness of filing the appeal becomes an issue. In some counties, the appeal is filed with the DOR appraisal office. In some counties, the appeal is mailed to the board secretary or the chairperson at his/her home address. This requested change was made because some counties have experienced the loss of a filed appeal, but actually some appeals have been rejected for various reasons before the local board had an opportunity to hear them.

What this change does is to provide a standardized location statewide for the receipt of the completed appeal form. There is no requirement for the Clerk and Recorder to do anything other than date stamp the appeal (so timeliness is determined easily) and place it in a drop box for the CTAB. The appeal is not "filed" in the legal sense of that word's meaning to the Clerk and Recorder. The appeal board secretary is then responsible for distribution of the appeal to the parties, the DOR and the local Board. They then go through their established procedures for docketing and hearing the appeal.

Page 5. 15-15-103 (2) (b). This merely deletes another reference to the 60 day session.

DATE 2/9/99

SENATE COMMITTEE ON Taxation

BILLS BEING HEARD TODAY: HB 82, HB 137, HB 138, HB 139

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Ron Alexander	449-4133	MT Petroleum Marketers	138	X	
Bob Gilbert	442-2989	MT/Wyo L.P. Gas Assn.	138	X	
Pat McKelvey	444-2720	State Tax Appeal Bd	02	X	
Pat McKelvey	"	"	137	X	
Jan Brown	444-2628	STAB	82	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE Feb. 9, 1999

SENATE COMMITTEE ON TAXATION

BILLS BEING HEARD TODAY: HB 138, HB 139, HB 82
HB 137

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Robert Turner	7672	MDOT	HB138 HB139	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MONTANA SENATE
1999 LEGISLATURE
TAXATION COMMITTEE

ROLL CALL DATE 2/9/99

NAME	PRESENT	ABSENT	EXCUSED
JOHN BOHLINGER	✓		
DOROTHY ECK	✓		
PETE EKEGREN	✓		
JON ELLINGSON	✓		
ALVIN ELLIS, JR.	✓		
BILL GLASER	✓		
SPOOK STANG	✓		
BOB DE PRATU, VICE CHAIRMAN	✓		
GERRY DEVLIN, CHAIRMAN	✓		

SENATE STANDING COMMITTEE REPORT

February 9, 1999

Mr. President:

We, your committee on **Taxation** report that **House Bill 82** (third reading copy -- blue) **be concurred in as amended.**

Signed: *Senator Gerry Devlin, Chair*

To be carried by Senator Dorothy Eck

And, that such amendments read:

1. Title, line 8.
Strike: "FILING"
Insert: "SUBMISSION"

- END -

Committee Vote:
Yes 6, No 0.

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